IN THE HIGH COURT OF UTTARANCHAL,

NAINITAL

1- Writ Petition No. 1310 (S/S) of 2005 (Leading case)

1. H.C. 10 Om Prakash S/o Sri Raghunath Prasad
   R/o Tendua District Hardoi, U.P.
2. H.C. 14 Pancham Chand S/o Sri Mast Ram
   R/o Vill. Garhkhal District Kangra, Himanchal
3. H.C. 28 Rakesh Kumar S/o Sri Raj Singh
   R/o Vill. Dehada. P.S. Muradnagar
   District Ghaziabad, U.P.
4. C/65 A.P. Sohanveer Singh S/o Sri Ram Swaroop
   R/o Saroorpur Kalan, District Bagpat, U.P.
5. C/160 A.P. Jaynarayan Singh s/O Sri Bhagoti Prasad
   R/o Sanohanpur, Derapur, Distt: Kanpur Dehat, U.P.
6. CP-124 Ajayveer Singh S/o Sri Rambir Singh
   R/o village Bhatora Tahsil Mawana
   District Meeruth, U.P.
7. C.P. 113 Sudhir Kumar S/o Sri Bhawar Singh
   R/o Kudana Dsitrict Muzaffarnagar U.P.
8. C/01 A.P. Yogendra Kumar S/o Sri Gopal Prasad
   R/o Nagla Papri, P.S. Jamnagar
   District Magthura, U.P.
9. CP/04- Brijveer Singh S/o Sri Rameshf Chand
   R/o Vill. Pallari P.s. Doghat, Distt: Bagpat; U.P.
10. CP. 60 Pradeep Panwar S/o Sri Kalu Ram Panwar
    R/o Sabra Patti Nago Tahsil Baraut, Distt: Bagpat, U.P.
11. C.P. 80 Vinay Kumar S/o Sri Vceerpal Singh
    R/o Salakheri Distt: muzaffarnagar
12. C.P. 23 Ramveer Singh S/o Sri Man Singh
    Vill. Nagla Patti, Distt: Bagpat, U.P.
13. C/64 A.P. Brijesh Kumar S/o Sri Rajpal Singh
    R/o Vill. Bansi, District Bagpat U.P.
14. CP 08 Arun Kumar S/o Sri Elam Singh
    R/o vill. Kakrala Distt: Muzaffarnagar
15. CP 164 Bhupndra Singh S/o Sri Hari Singh
    R/o Bhutpur, P.S. Afzalgarh, District Bijnor, U.P.

.....Petitioners

Versus

1. State of Uttaranchal through Home Secretary, Uttaranchal, Dehradun.

2. Director General of Police, Uttaranchal, Dehradun
3. Additional Director General of Police (Administration) Uttaranchal, Dehradun
4. Superintendent of Police, Uttar Kashi

5. The Secretary, Ministry of Public Grievances, Pension, Union of India, IIIrd Floor, Lok Nayak Bhawan, Khan Market, New Delhi.

.....Respondents

Sri Dharam Veer, Learned Senior Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

2- Writ Petition No. 1642 (S/S) of 2005

Nand Kishore & three others ...Petitioners

Versus

Union of India & three others ...Respondents

With

3- Writ Petition No. 1217 (S/S) of 2005

Const. Ashok Kumar & twenty others ...Petitioners

Versus

Union of India & three others ...Respondents

With

4- Writ Petition No. 1526 (S/S) of 2005

Radha Krishna & thirteen others ...Petitioners

Versus

Union of India & three others ...Respondents

With

5- Writ Petition No. 1571 (S/S) of 2005

Shiv Prakash Verma & twenty five others
...Petitioners

Versus

Union of India & five others ...Respondents

With

6- Writ Petition No. 1572 (S/S) of 2005

Vinod Singh Yadav & Nineteen others
...Petitioners

Versus

Union of India & three others ...Respondents

With

7- Writ Petition No. 1576 (S/S) of 2005

Promod Kumar Saxena & Nineteen others
...Petitioners

Versus

Union of India & three others ...Respondents

With

8- Writ Petition No. 1591 (S/S) of 2005

G.R.P. Sant Ram & sixty two others ...Petitioners

Versus

Union of India & two others ...Respondents

With

9- Writ Petition No. 1593 (S/S) of 2005

Arvind Kumar & fifteen others ...Petitioners

Versus

Union of India & three others ...Respondents

With

10- Writ Petition No. 1609 (S/S) of 2005

Pawan Kumar & fifty others ...Petitioners

Versus

Union of India & three others ...Respondents

With

11- Writ Petition No. 1612 (S/S) of 2005

Fireman Charan Singh & twenty two others
...Petitioners

Versus

Union of India & three others ...Respondents

With

12- Writ Petition No. 1632 (S/S) of 2005

Jahir Ahmad & ten others ...Petitioners

Versus

Union of India & three others ...Respondents

With

13- Writ Petition No. 1641 (S/S) of 2005

Const. Jaibeer Singh & Eighty one others
...Petitioners

Versus

Union of India & three others
...Respondents

With

14- Writ Petition No. 1646 (S/S) of 2005
Amit Dhyani & two others ...Petitioners
Versus
Union of India & two others ...Respondents

With

15- Writ Petition No. 1649 (S/S) of 2005
Const. Manak Chand & eight others ...Petitioners
Versus
Union of India & three others ...Respondents

With

16- Writ Petition No. 1659 (S/S) of 2005
Dinesh Kumar Tyagi & two others ...Petitioners
Versus
State of Uttaranchal & two others ... Respondents

With

17- Writ Petition No. 1689 (S/S) of 2005
Cons. 278 C.P. Rakesh Kumar & three others ... Petitioners
Versus
Union of India & two others ... Respondents

With

18- Writ Petition No. 1614 (S/S) of 2005
Janardan Singh & eleven others ...Petitioners
Versus
Union of India & three others ...Respondents

With

19- Writ Petition No. 1754 (S/S) of 2005
Cons. 55854 Krishna Kumar Singh & ten others ... Petitioners
Versus
Union of India & three others ...Respondents

With

20- Writ Petition No. 1583 (S/S) of 2005
Cons. 40812 Jitendra Singh Yadav &
Seventy two others ...Petitioners
Versus
Union of India & three others ... Respondents

Sri Vivek Shukla, Learned Senior Counsel for the petitioners

Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali Bhargava, learned counsel for Union of India

With

21- Writ Petition No. 3167 (S/S) of 2001

Kunwar Pal Singh & Nine others ...Petitioners

Versus

Union of India & two others ...Respondents

Sri Nanak C hand Gupta, Learned Senior Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali Bhargava, learned counsel for Union of India

With

22- Writ Petition No. 3202 (S/S) of 2005

Shamat Hussain & nine others ...Petitioners

Versus

Union of India & three others ...Respondents

With

23- Writ Petition No. 1608 (S/S) of 2005

Anirudha Kumar & sixteen others ...Petitioners

Versus

Union of India & three others ...Respondents

With

24- Writ Petition No. 1636 (S/S) of 2005

Sanjeev Kumar & eighteen others ...Petitioners

Versus

Union of India & five others ...Respondents

Sri SC.Bhatt, Learned Senior Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali Bhargava, learned counsel for Union of India

With

25- Writ Petition No. 973 (S/S) of 2005

Satendra Singh & thirty six others ...Petitioners

Versus

State of Uttaranchal & five others ...Respondents

With

26- Writ Petition No. 1182 (S/S) of 2005

Sanjeev Panwar & twenty six others ...Petitioners

Versus

State of Uttaranchal & five others ...Respondents

With

27- Writ Petition No. 1201(S/S) of 2005

C.P. No. 55448 Manoj Kumar & fifteen others ...Petitioners

Versus

State of Uttaranchal & five others ...Respondents

With

28- Writ Petition No. 1660 (S/S) of 2005

Samar Pal & thirty six others ...Petitioners

Versus

State of Uttaranchal & five others ...Respondents

Sri M.C. Pant, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

29- Writ Petition No. 1511 (S/S) of 2005

Jagdamba Prasad ...Petitioners

Versus

State of Uttaranchal & five others .....Respondents

Sri B.D. Malhotra, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

30- Writ Petition No. 1567 (S/S) of 2005

Parsu Ram Singh & twenty others ...Petitioners

Versus

Union of India & three others ...Respondents

Sri Rajendra Singh, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

31- Writ Petition No. 1594 (S/S) of 2005

Lokendra Singh & two others ...Petitioners

Versus

State of Uttaranchal & six others ...Respondents

With

32- Writ Petition No. 1621 (S/S) of 2005

Sharad Kumar & three others ...Petitioners

Versus

State of Uttaranchal & six others ...Respondents

With

33- Writ Petition No. 1656 (S/S) of 2005

Pawan Kumar & another ...Petitioners

Versus

State of Uttaranchal & six others ...Respondents

Sri Amish Tewari, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

34- Writ Petition No. 1630 (S/S) of 2005

H.C. Davendra Kumar & twenty three others ...Petitioners

Versus

State of Uttaranchal & five others ...Respondents

Sri N.S. Pundir, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

35- Writ Petition No. 1645 (S/S) of 2005

Const. Pradeep Bhatia & another ...Petitioners

Versus

Union of India & three others ...Respondents

Sri Vipul Painuly, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

36- Writ Petition No. 1654 (S/S) of 2005

Madan Singh & four others ...Petitioners

Versus

Union of India & five others ...Respondents

Sri M.C. Bansal, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

37- Writ Petition No. 1670 (S/S) of 2005

Mahendra Pal Yadav & six others ...Petitioners

Versus

State of Uttaranchal & another ...Respondents

Sri Lokpal Singh, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

With

38- Writ Petition No. 1690 (S/S) of 2005

Kuldeep Singh Rana & three others ...Petitioners

Versus

Union of India & four others ...Respondents

With

39- Writ Petition No. 1550 (S/S) of 2005

Ravi Shankar Devedi & twelve others ...Petitioners

Versus

Union of India & four others ...Respondents

With

40- Writ Petition No. 1532(S/S) of 2005

Lajja Ram & eleven others ...Petitioners

Versus

Union of India & three others ...Respondents

With

41- Writ Petition No. 1555 (S/S) of 2005

Amar Singh Chahar & thirteen others ...Petitioners

Versus

Union of India & four others ...Respondents

Sri Parikshit Saini, Learned Counsel for the petitioners
Sri Harendra Belwal Learned Standing Counsel for the State of Uttaranchal.
Smt. Beena Pandey, Learned counsel for the State of U.P.
Smt. Anjali bhargava, learned counsel for Union of India

Hon'ble Justice M.M. Ghildiyal, J.

Heard Sri Dharm Veer Sharma, learned Sr. Counsel, Sri Vivek Shukla, Adv., Sri S.C. Bhatt, Adv., Sri M.C. Pant, Adv., Sri Nanak Chand Gupta, Adv., Sri B.D. Malhotra, Adv., Sri Rajendra Singh, Adv., Sri Amish Tewari, Adv. Sri N.S. Pundir, Adv., Sri Vipul Painuly, Adv., Sri M.C. Bansal, Adv., Sri Lokpal Singh, Adv., & Sri Parikshit Saini Learned counsel for the petitioners and Sri Harendra Belwal, Learned Staning Counsel for State of Uttaranchal, Smt. Beena Pandey, Learned Standing Counsel for State of U.P. and Smt. Anjali Bhargava, Learned Standing Counsel for Union of India.

All these writ petitions raises a common question of Law to be determined. Some of a petitioners are Constables/Head Constables and Sub Inspector in regular police in State of Uttaranchal some of the petitioners are Constables/Head Constables in P.A.C., some of the petitioners are Radio Operators Tech. Wireless Department and some of them are Warden in Jails.

Petitioners have submitted that they are permanent residents of State of Uttar Pradesh and when the State of Uttaranchal was created, they were posted in the hill districts of State of Uttaranchal they are still performing their duties in the State of Uttaranchal.

Prior to creation of State of Uttaranchal, the Government had issued an order, by which options were invited from the Government servants that either to opt for the State of Uttar Pradesh or for the State of

Uttaranchal. In pursuance of that G.O. the petitioners have opted for State of Uttar Pradesh.

Counsel for the petitioners have submitted that the State of Uttaranchal was created on 09.11.2000. More than five years have passed but the petitioners have not been relieved for State of Uttar Pradesh thus, the result is that on the one hand petitioners are not being considered for promotions to the higher posts in the State of Uttaranchal on the ground that they have opted for State of Uttar Pradesh and on the another hand, the State of Uttar Pradesh is also not considering them for promotion on the higher posts on the ground that they are not working in the State of Uttar Pradesh.

The Petitioners have submitted that on 14thJuly 2004, Deputy Inspector General of Police (Karmik), Uttar Pradesh has issued an order allotting the police personnel to State of Uttar Pradesh. Alongwith the aforesaid letter, a list was residents of State of Uttar Pradesh and had opted for State of Uttar Pradesh. In pursuance of the aforesaid letter, the Additional Director General of Police (Administration), Uttaranchal has passed orders on dated 24.12.2004, 03.01.2005, 11.01.2005, 25.01.2005 and 2701.2005 to relive the police personnel who are permanent residents of State of Uttar Pradesh and who have been allotted State of Uttar Pradesh. Submission of the petitioners is that in spite of all these orders, they are not being relieved to State of Uttar Pradesh.

Smt. Anjali Bhargava, Learned Standing Counsel for Union of India has stated that Union of India has also published a final allocation list in respect of the police

personnel allotted for State of Uttar Pradesh/ State of Uttaranchal.

The State of Uttaranchal has filed counter affidavit in writ petition no. 1649 (SS) 05 Manak Chand and ors. Vs. Uttaranchal State and ors and also in some other petitions. In all the counter affidavits the only stand taken by the State of Uttaranchal is that since there is scarcity of police personnel, hence they are unable to relieve the police personnel. It is further submitted by the learned Standing Counsel that since as many as 4000 police personnel who are working in State of Uttar Pradesh have been allotted to State of Uttaranchal, but the State of Uttar Pradesh is not relieving them for State of Uttaranchal. Some of them have got stay orders from the Hon'ble Allahabad High Court.

Learned counsel for the parties have drawn my attention to the news reports published in a newspaper that State of Uttar Pradesh is not willing to relive the police personnel from state of Uttar Pradesh to state of Uttaranchal. The number of such police personnel is more than 4000. Learned Standing Counsel for the respondents have further submitted that more than 2000 police personnel are to be relived from State of Uttaranchal. In case, State of Uttaranchal is not getting police personnel who have been allotted to state of Uttaranchal and the police personnel who are working in the State of Uttaranchal are relieved, then there will be the stage of lawlessness in view of the acute shortage of police personnel in the State of Uttaranchal which the State is already facing.

Learned Standing Counsel for the State of Uttaranchal has further submitted that the matter was also pleaded before the Union of India and it is expected, as published in

the newspapers, that in the State of Uttar Pradesh is not ready to relieve the police personnel to the State of Uttaranchal, the State of Uttaranchal may be permitted to recruit the police personnel for providing effective administration of law and order in the State.

No doubt, the State cannot be run without sufficient number of police personnel. The State of Uttaranchal is already suffering on account of shortage of police personnel and in case the State Authoritative are directed to relieve the police personnel immediately, it will not be possible to run the Government.

Learned counsel for the petitioners have also submitted that the State of Uttaranchal is adopting pick and choose policy in reliving the police personnel. The Competent Authority is directed to fix reasoned criteria in accordance with law for relieving the police personnel to the State of Uttar Pradesh.

In these circumstances, it will be just and proper to direct the respondent no. 5, i.e. Secretary, Union of India, New Delhi to settle the dispute of allocation and also to direct both the State Governments to relieve all the police personnel to the State, which is allotted to them at the earliest.

The Director General of Police, Uttaranchal/respondent no. 2 is also directed to relieve the petitioners as and when it is possible for the State.

With these directions, all the writ petitions are finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

November 29,2005

Jain